

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

ROLANDO CABRERA, M.D.)

File No. 03-2007-185177

Physician's and Surgeon's)

Certificate No. A75736)

Respondent.)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 7, 2008.

IT IS SO ORDERED October 8, 2008.

MEDICAL BOARD OF CALIFORNIA

By: _____

**Barbara Yaroslavsky, Chair
Panel B**

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON, State Bar No. 116564
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-5544
Facsimile: (415) 703-5480

6 Attorneys for Complainant

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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 03-2007-185177

11 **ROLANDO CABRERA, M.D.**
12 631 E. Alvin Drive, Suite H
Salinas, CA 93906

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13 Physician's and Surgeon's Certificate No. A75736

14 Respondent.
15

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
17 above-entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Barbara Johnston (Complainant) is the Executive Director of the Medical
20 Board of California. She brought this action solely in her official capacity and is represented in
21 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Jane Zack
22 Simon, Deputy Attorney General.

23 2. Rolando Cabrera, M.D. (Respondent) is represented by Edward Hinshaw,
24 Esq., and Hinshaw, Draa, Marsh, Still & Hinshaw, 12901 Saratoga Avenue, Saratoga, CA.,
25 95070.

26 3. On or about July 1, 2001, the Medical Board of California issued
27 Physician's and Surgeon's Certificate No. A75736 to Respondent. Said certificate was in full
28 force and effect at all times relevant to the charges in Accusation No. 03-2007-185177 and will

1 expire on September 30, 2008, unless renewed.

2 **JURISDICTION**

3 4. Accusation No. 03-2007-185177 was duly filed before the Medical Board
4 of California ("Board"), and is currently pending against Respondent. The Accusation and all
5 other statutorily required documents were properly served on Respondent. Respondent timely
6 filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 03-2007-
7 185177 is attached as exhibit A and incorporated herein by reference.

8 **ADVISEMENT AND WAIVERS**

9 5. Respondent has carefully read, fully discussed with his counsel and
10 understands the charges and allegations in Accusation No. 03-2007-185177. Respondent has
11 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
12 Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
15 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
16 the right to present evidence and to testify on his own behalf; the right to the issuance of
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to
18 reconsideration and court review of an adverse decision; and all other rights accorded by the
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
21 each and every right set forth above.

22 **CULPABILITY**

23 8. Respondent does not contest that, at an administrative hearing,
24 complainant could establish a *prima facie* case with respect to the charges and allegations
25 contained in Accusation No. 03-2007-185177, and that he has thereby subjected his license to
26 disciplinary action.

27 9. Respondent agrees that his Physician's and Surgeon's Certificate is subject
28 to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the

1 Disciplinary Order below.

2 **RESERVATION**

3 10. The admissions made by respondent herein are only for the purposes of
4 this proceeding or any other proceedings in which the Medical Board of California or other
5 professional licensing agency in any state is involved, and shall not be admissible in any other
6 criminal or civil proceedings.

7 **CONTINGENCY**

8 11. This Stipulation shall be subject to the approval of the Board.
9 Respondent understands and agrees that Board staff and counsel for complainant may
10 communicate directly with the Board regarding this stipulation, without notice to or participation
11 by Respondent or his counsel. If the Board fails to adopt this Stipulation as its Order in this
12 matter, the Stipulation shall be of no force or effect; it shall be inadmissible in any legal action
13 between the parties; and the Board shall not be disqualified from further action in this matter by
14 virtue of its consideration of this Stipulation. Respondent also understands and agrees that he
15 will not be able to withdraw or modify this Stipulation while it is before the Board for
16 consideration.

17 12. The parties understand and agree that facsimile or electronic copies of this
18 Stipulated Settlement and Disciplinary Order, including facsimile or electronic signatures
19 thereto, shall have the same force and effect as the originals.

20 13. In consideration of the foregoing admissions and stipulations, the parties
21 agree that the Board may, without further notice or formal proceeding, issue and enter the
22 following Disciplinary Order:

23 **DISCIPLINARY ORDER**

24 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate number
25 A75736 issued to Respondent Rolando Cabrera, M.D. (Respondent) is revoked. However, the
26 revocation is stayed and Respondent is placed on probation for five (5) years on the following
27 terms and conditions.

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1 14. PROFESSIONAL BOUNDARIES PROGRAM: Within 60 calendar days
2 from the effective date of this Decision, Respondent shall enroll in a professional boundaries
3 program, at Respondent's expense, equivalent to the Professional Boundaries Program, Physician
4 Assessment and Clinical Education Program at the University of California, San Diego School of
5 Medicine ("Program"). Respondent, at the Program's discretion, shall undergo and complete the
6 Program's assessment of Respondent's competency, mental health and/or neuropsychological
7 performance, and at minimum, a 24 hour program of interactive education and training in the
8 area of boundaries, which takes into account data obtained from the assessment and from the
9 Decision(s), Accusation(s) and any other information that the Board or its designee deems
10 relevant. The Program shall evaluate Respondent at the end of the training and the Program shall
11 provide any data from the assessment and training as well as the results of the evaluation to the
12 Board or its designee.

13 Failure to complete the entire Program not later than six months after
14 Respondent's initial enrollment shall constitute a violation of probation unless the Board or its
15 designee agrees in writing to a later time for completion. Based on Respondent's performance in
16 and evaluations from the assessment, education, and training, the Program shall advise the Board
17 or its designee of its recommendation(s) for additional education, training, psychotherapy and
18 other measures necessary to ensure that Respondent can practice medicine safely. Respondent
19 shall comply with Program recommendations. At the completion of the Program, Respondent
20 shall submit to a final evaluation. The Program shall provide the results of the evaluation to the
21 Board or its designee.

22 Respondent shall submit a certification of successful completion to the Board or
23 its designee not later than 15 calendar days after successfully completing the course, or not later
24 than 15 calendar days after the effective date of the Decision, whichever is later. The Program's
25 determination whether or not Respondent successfully completed the Program shall be binding.
26 Failure to participate in and complete successfully all phases of the Program, as outlined above,
27 is a violation of probation. If Respondent fails to complete the Program within the designated
28 time period, Respondent shall cease the practice of medicine within 72 hours after being notified

1 by the Board or its designee that respondent failed to complete the Program.

2 A professional boundaries program taken after the acts that gave rise to the
3 charges in the Accusation, but prior to the effective date of the Decision may, in the sole
4 discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the
5 course would have been approved by the Board or its designee had the course been taken after
6 the effective date of this Decision.

7 15. ETHICS COURSE Within 60 calendar days of the effective date of this
8 Decision, Respondent shall enroll in a course in ethics, at Respondent's expense, approved in
9 advance by the Board or its designee. Said course shall fulfill all of the requirements set forth in
10 California Code of Regulations §1358.1. Failure to successfully complete the course during the
11 first year of probation is a violation of probation.

12 An ethics course taken after the acts that gave rise to the charges in the
13 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
14 or its designee, be accepted towards the fulfillment of this condition if the course would have
15 been approved by the Board or its designee had the course been taken after the effective date of
16 this Decision.

17 Respondent shall submit a certification of successful completion to the Board or
18 its designee not later than 15 calendar days after successfully completing the course, or not later
19 than 15 calendar days after the effective date of the Decision, whichever is later.

20 16. PSYCHOTHERAPY Within 60 days of the effective date of this
21 Decision, Respondent shall submit to the Board or its designee for prior approval the name and
22 qualifications of a board-certified psychiatrist or a licensed psychologist who has a doctoral
23 degree in psychology and at least five years of postgraduate experience in the diagnosis and
24 treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and
25 continue psychotherapy treatment, including any modifications to the frequency of
26 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

27 The psychotherapist shall consider any information provided by the Board or its
28 designee and any other information the psychotherapist deems relevant and shall furnish a written

1 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
2 psychotherapist any information and documents that the psychotherapist may deem pertinent.
3 Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or
4 its designee.

5 If, prior to the completion of probation, Respondent is found to be mentally unfit
6 to practice medicine without restrictions, the Board shall retain continuing jurisdiction over
7 Respondent's license and the period of probation shall be extended until the Board determines
8 that Respondent is mentally fit to resume the practice of medicine without restrictions.
9 Respondent shall pay the cost of all psychotherapy.

10 Failure to undergo and continue psychotherapy treatment, or to comply with any
11 required modification in the frequency of psychotherapy, is a violation of probation.

12 17. THIRD PARTY CHAPERONE: During probation, Respondent shall
13 have a third party chaperone present while consulting, examining or treating female patients.
14 Respondent shall, within 30 calendar days of the effective date of the Decision, submit to the
15 Board or its designee for prior approval name(s) of persons who will act as the third party
16 chaperone. Each third party chaperone shall initial and date each patient medical record at the
17 time the chaperone's services are provided. Each third party chaperone shall read the Decision(s)
18 and the Accusation(s), and fully understand the role of the third party chaperone. Respondent
19 shall maintain a log of all patients seen for whom a third party chaperone is required. The log
20 shall contain the: 1) patient name, address and telephone number; 2) medical record number; and
21 3) date of service. Respondent shall keep this log in a separate file or ledger, in chronological
22 order, shall make the log available for immediate inspection and copying on the premises at all
23 times during business hours by the Board or its designee, and shall retain the log for the entire
24 term of probation. Failure to maintain a log of all patients requiring a third party chaperone, or to
25 make the log available for immediate inspection and copying on the premises, is a violation of
26 probation.

27 18. NOTIFICATION Prior to engaging in the practice of medicine, the
28 Respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff

1 or the Chief Executive Officer at every hospital where privileges or membership are extended to
2 Respondent, at any other facility where Respondent engages in the practice of medicine,
3 including all physician and locum tenens registries or other similar agencies, and to the Chief
4 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
5 Respondent. Respondent shall submit proof of compliance to the Board or its designee within
6 15 calendar days. This condition shall apply to any change(s) in hospitals, other facilities or
7 insurance carrier.

8 19. OBEY ALL LAWS Respondent shall obey all federal, state and local
9 laws, all rules governing the practice of medicine in California, and remain in full compliance
10 with any court ordered criminal probation, payments and other orders.

11 20. QUARTERLY DECLARATIONS Respondent shall submit quarterly
12 declarations under penalty of perjury on forms provided by the Board, stating whether there has
13 been compliance with all the conditions of probation. Respondent shall submit quarterly
14 declarations not later than 10 calendar days after the end of the preceding quarter.

15 21. PROBATION UNIT COMPLIANCE Respondent shall comply with the
16 Board's probation unit. Respondent shall, at all times, keep the Board informed of Respondent's
17 business and residence addresses. Changes of such addresses shall be immediately
18 communicated in writing to the Board or its designee. Under no circumstances shall a post office
19 box serve as an address of record, except as allowed by Business and Professions Code section
20 2021(b).

21 Respondent shall not engage in the practice of medicine in Respondent's place of
22 residence. Respondent shall maintain a current and renewed California physician's and
23 surgeon's license.

24 Respondent shall immediately inform the Board, or its designee, in writing, of
25 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,
26 more than 30 calendar days.

27 22. INTERVIEW WITH THE BOARD, OR ITS DESIGNEE Respondent
28 shall be available in person for interviews either at Respondent's place of business or at the

1 probation unit office, with the Board or its designee, upon request at various intervals, and either
2 with or without prior notice throughout the term of probation.

3 23. RESIDING OR PRACTICING OUT-OF-STATE In the event
4 Respondent should leave the State of California to reside or to practice, Respondent shall notify
5 the Board or its designee in writing 30 calendar days prior to the dates of departure and return.
6 Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is
7 not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions
8 Code.

9 All time spent in an intensive training program outside the State of California
10 which has been approved by the Board or its designee shall be considered as time spent in the
11 practice of medicine within the State. A Board-ordered suspension of practice shall not be
12 considered as a period of non-practice. Periods of temporary or permanent residence or practice
13 outside California will not apply to the reduction of the probationary term. Periods of temporary
14 or permanent residence or practice outside California will relieve Respondent of the
15 responsibility to comply with the probationary terms and conditions with the exception of this
16 condition and the following terms and conditions of probation: Obey All Laws; Probation Unit
17 Compliance.

18 Respondent's license shall be automatically canceled if Respondent's periods of
19 temporary or permanent residence or practice outside California total two years. However,
20 Respondent's license shall not be canceled as long as Respondent is residing and practicing
21 medicine in another state of the United States and is on active probation with the medical
22 licensing authority of that state, in which case the two year period shall begin on the date
23 probation is completed or terminated in that state.

24 24. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

25 In the event Respondent resides in the State of California and for any reason
26 Respondent stops practicing medicine in California, Respondent shall notify the Board or its
27 designee in writing within 30 calendar days prior to the dates of non-practice and return to
28 practice. Any period of non-practice within California, as defined in this condition, will not

1 apply to the reduction of the probationary term and does not relieve Respondent of the
2 responsibility to comply with the terms and conditions of probation. Non-practice is defined as
3 any period of time exceeding 30 calendar days in which Respondent is not engaging in any
4 activities defined in sections 2051 and 2052 of the Business and Professions Code.

5 All time spent in an intensive training program which has been approved by the
6 Board or its designee shall be considered time spent in the practice of medicine. For purposes of
7 this condition, non-practice due to a Board-ordered suspension or in compliance with any other
8 condition of probation, shall not be considered a period of non-practice.

9 Respondent's license shall be automatically canceled if Respondent resides in
10 California and for a total of two years, fails to engage in California in any of the activities
11 described in Business and Professions Code sections 2051 and 2052.

12 25. COMPLETION OF PROBATION Respondent shall comply with all
13 financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to
14 the completion of probation. Upon successful completion of probation, Respondent's certificate
15 shall be fully restored.

16 26 VIOLATION OF PROBATION Failure to fully comply with any term or
17 condition of probation is a violation of probation. If Respondent violates probation in any
18 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
19 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to
20 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,
21 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
22 shall be extended until the matter is final.

23 27. LICENSE SURRENDER Following the effective date of this Decision, if
24 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
25 the terms and conditions of probation, Respondent may request the voluntary surrender of
26 Respondent's license. The Board reserves the right to evaluate Respondent's request and to
27 exercise its discretion whether or not to grant the request, or to take any other action deemed
28 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,

1 Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the
2 Board or its designee and Respondent shall no longer practice medicine. Respondent will no
3 longer be subject to the terms and conditions of probation and the surrender of Respondent's
4 license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the
5 application shall be treated as a petition for reinstatement of a revoked certificate.

6 28. PROBATION MONITORING COSTS Respondent shall pay the costs
7 associated with probation monitoring each and every year of probation, as designated by the
8 Board, which are currently set at \$3,173.00, but may be adjusted on an annual basis. Such costs
9 shall be payable to the Medical Board of California and delivered to the Board or its designee no
10 later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the
11 due date is a violation of probation.

12 ACCEPTANCE

13 I have carefully read the Stipulated Settlement and Disciplinary Order and have
14 fully discussed it with my attorney. I understand the stipulation and the effect it will have on my
15 Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary
16 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
17 of the Medical Board of California.

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19 DATED: 8/27/08



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22 ROLANDO CABRERA, M.D.
Respondent

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APPROVAL

I have read and fully discussed with Respondent Rolando Cabrera the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8-29-08.

HINSHAW, DRAA, MARSH, STILL & HINSHAW


EDWARD A. HINSHAW
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: 9/4/08.

EDMUND G. BROWN JR., Attorney General
of the State of California



JANE ZACK SIMON
Deputy Attorney General
Attorneys for Complainant

Exhibit A

1 EDMUND G. BROWN JR, Attorney General
of the State of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON, State Bar No. 116564
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, California 94102
Telephone: (415) 703-5544
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12

In the Matter of the Accusation Against:

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ROLANDO CABRERA, M.D.
1326 Natividad Rd, Suite C
14 Salinas, CA 93906

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Physician's and Surgeon's Certificate No.
A75736

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Respondent.

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Complainant alleges:

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1. Barbara Johnston ("Complainant") brings this Accusation (hereinafter
"Accusation") solely in her official capacity as the Executive Director of the Medical Board of
California.

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2. On or about July 1, 2001, the Medical Board of California issued
Physician's and Surgeon's Certificate Number A75736 to Rolando Cabrera, M.D. ("Respondent")
The certificate is renewed and current with an expiration date of September 30, 2008.

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 26, 20 08
BY Valerie McGee ANALYST

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3. This Accusation is brought before the Medical Board of California (the

A. Section 2227 of the Code provides that the Board may revoke,

B. Section 2234 of the Code provides that the Board shall take action

C. Section 726 of the Code provides, in pertinent part, that the

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4. The Principles of Medical Ethics of the American Medical Association

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(Unprofessional Conduct/Sexual Misconduct/Violation of Ethical Principles)

5. Respondent specializes in family practice, and maintains a private practice

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1 In 2005, Patient A. gave birth to her third child, who had a number of significant
2 medical problems. Respondent provided medical care to the baby, and also discussed the child's
3 health with Patient A on a number of occasions. Patient A and her family saw Respondent for
4 their medical needs on a regular basis up until February, 2007.

5 6. In or about December, 2006, Patient A saw Respondent for a routine
6 medical visit. During the office visit, Patient A confided in Respondent that she was feeling very
7 anxious and emotional, and discussed problems she was having in her marriage and with her own
8 impulsive behavior. Respondent suggested that he and Patient A should get together socially.
9 Patient A and Respondent began to meet frequently for coffee, movies and other social
10 encounters. They exchanged frequent telephone calls and text messages, and discussed their
11 personal and emotional lives. Over time, Respondent told Patient A that he was very attracted to
12 her. In or about February, 2007, Respondent and Patient A engaged in sexual intercourse on at
13 least one occasion. During this time, Patient A and her family continued to receive medical care
14 from Respondent.

15 7. Respondent's conduct constitutes unprofessional conduct, and/or sexual
16 misconduct, and/or a violation of ethical principles, and is cause for discipline under Sections
17 2234 and/or 726 in that:

18 a. Respondent failed to maintain a professional manner or demeanor
19 in his interactions with Patient A.;

20 b. Respondent entered into a sexual relationship with Patient A, at a
21 time when she was receiving medical treatment from him, and was suffering from
22 depression, anxiety and marital difficulties;

23 c. Respondent entered into a sexual relationship with the wife of
24 one of his patients.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein
27 alleged, and that following the hearing, the Board issue a decision:

28 1. Revoking or suspending Physician's and Surgeon's Certificate Number

1 A75736, issued to Rolando Cabrera, M.D.;

2 2. Revoking, suspending or denying approval of Respondent's authority to
3 supervise physician's assistants;

4 3. Ordering Respondent, if placed on probation, the costs of probation
5 monitoring;

6 4. Taking such other and further action as deemed necessary and proper.
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8 DATED: June 26, 2008.

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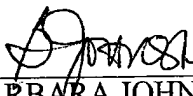
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BARBARA JOHNSTON
Executive Director
Medical Board of California

Complainant